

## REMARKS

The Examiner is thanked for the indication that claims 1-7, 10-16, 18, 20-22, and 24 are allowed.

Claims 1-7, 10-16, 18, 20-22, 24, and 26-30 are pending in the application. Claims 1, 16, 22, and 28-30 are independent. In the present Response, no claims have been amended, canceled, or added.

### Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected claims 20-21, 26-27, and 29-30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 8 of U.S. Patent No. 6,661,814 to Chapman et al. (hereinafter "Chapman"). An obviousness-type double patenting rejection is analogous to a failure to meet the obviousness requirement of 35 U.S.C. §103, thus, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. §103 obviousness determination. (MPEP § 804(II)(B)(1) citing *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985)). To establish a *prima facie* case of obviousness, an Examiner must show that there is some suggestion or motivation to modify a reference to arrive at the claimed invention, that there is some expectation of success, and that the cited reference(s) teaches each and every element of the claimed invention. (MPEP §2143 citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Applicant respectfully traverses the rejection.

In papers filed herewith, Applicants have submitted a Terminal Disclaimer disclaiming the terminal part of any patent granted on the above-identified application that would extend beyond the expiration of the full statutory term of U.S. Patent No. 6,661,814. Applicants respectfully submit that the Terminal Disclaimer overcomes the obviousness-type double patenting rejection. Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 20-21, 26-27, and 29-30.

### CONCLUSION

Applicants submit that all grounds for rejection have been properly traversed, accommodated, or rendered moot, and that the application is in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 2/23/2006

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